

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

**MICHAEL BRANNAN, Individually, as
Administrator of the estate of BARBARA
BRANNAN, Deceased, and as Parent and
Natural Guardian for his minor children
STEPHANIE BRANNAN AND
RHIANNON BRANNAN,**

Plaintiff,

vs

**KAISER-PERMANENTE; MINDY
ROTHBARD, M.D.; and MIKE G. LIN,
M.D.,**

Defendants.

C05-5157FDB

**ORDER REGARDING
DISCOVERY AND DEPOSITIONS**

It is ORDERED that:

1. DISCOVERY. All discovery matters should be resolved by agreement if possible. If a ruling is needed on any discovery question, counsel should timely file a written motion. Upon proffer, only *emergency* rulings shall be expedited through a telephone conference call with the court at (253) 593-6307.

2. DEPOSITIONS. Depositions will be conducted in compliance with the following rules.

1 (a) **Examination.** If there are multiple parties, each side should ordinarily
2 designate on attorney to conduct the main examination of the deponent, and any
3 questioning by other counsel on that side should be limited to matters not previously
4 covered.

5 (b) **Objections.** The only objections that should be raised at the depositions are
6 those involving a privilege against disclosure, or some matter that may be remedied if
7 presented at the time (such as the form of the question or the responsiveness of the answer),
8 or that the question seeks information beyond the scope of discovery. Objections on other
9 grounds are unnecessary and should be avoided. All objections should be concise and must
10 not suggest answers to, or otherwise coach, the deponent. Argumentative interruptions will
11 not be permitted.

12 (c) **Directions Not to Answer.** Directions to the deponent not to answer are
13 improper. Advice not to answer may be appropriate on the ground of privilege or to
14 enable a party or deponent to present a motion to the court or special master for
15 termination of the deposition on the ground that it is being conducted in bad faith or in
16 such a manner as unreasonably to annoy, embarrass or oppress the party or the deponent,
17 or for appropriate limitations upon the scope of the deposition (e.g., on the ground that the
18 line of inquiry is not relevant nor reasonably calculated to lead to the discovery of
19 admissible evidence). When a privilege is claimed, the witness should nevertheless answer
20 questions relevant to the existence, extent or waiver of the privilege, such as the date of the
21 communication, who made the statement in question, to whom and in whose presence the
22 statement was made, other persons to whom the contents of the statement have been
23 disclosed, and the general subject matter of the statement.

24 (d) **Responsiveness.** Witnesses will be expected to answer all questions directly
25 and without evasion, to the extent of their testimonial knowledge, unless they choose to
26 follow the advice of counsel not to answer.

27 (e) **Private consultation.** Private conferences between deponents and their
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attorneys during the actual taking of the deposition are improper, except for the purpose of
datelining whether a privilege should be asserted. Unless prohibited by the court for good
cause shown, such conferences may, however, be held during normal recesses and
adjournments.

(f) Conduct of Examining Counsel. Examining counsel will refrain from asking
questions he or she knows to be beyond the legitimate scope of discovery, and from undue
repetition.

(g) Courtroom Standard. All counsel and parties should conduct themselves in
deposition with the same courtesy and respect for the rules that are required in the
courtroom during trial.

3. RESPONSIBILITY OF PLAINTIFF'S COUNSEL. This order is issued at
the outset of the case, and a copy is delivered by the clerk to counsel for plaintiff.
Plaintiff's counsel (or plaintiff if pro se) is directed to deliver a copy of this order to each
other party within ten (10) days after receiving notice of that party's appearance.

DATED this 14th day of March 2005.

/s/ Franklin D Burgess
FRANKLIN D. BURGESS
United States District Judge